

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** May 29, 2014

Approved



Date

6/6/14

**COUNCIL DISTRICT:** 4

**SUBJECT: SALE OF CITY-OWNED PROPERTY AT ARAUJO STREET NORTH OF  
SIERRA ROAD**

## RECOMMENDATION

Adopt a resolution:

- a. Declaring approximately 26,618 square feet of City-owned property on Araujo Street, north of Sierra Road, being a portion of APN: 241-02-016, surplus to the needs of the City;
- b. Approving an agreement between the City and Villa Developers and Investment, LLC., for sale of the property in the amount of \$960,000;
- c. Authorizing the City Manager or his designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction; and
- d. Authorizing the payment of \$28,800 of the purchase price to the buyers' broker, Mark Braatz of BEI Commercial, through the sale escrow at closing.

## OUTCOME

Adoption of this resolution will allow for the sale of approximately 26,618 square feet (0.61 acres) of City-owned property located on Araujo Street (a portion of APN:241-02-016), to Villa Developers and Investment, LLC., for an amount of \$960,000. The net proceeds of the sale will be recognized and deposited to the City's General Fund upon the completion of the sale.

## BACKGROUND

The City purchased the property in 1967 for future development of the San Jose Municipal Golf Course. The acquired parcel was 30 acres which later included the development of Araujo Street. The property was purchased with General Fund dollars for a total cost of \$300,000. This 26,618 square foot portion of City-owned property is a remnant of vacant land originally

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purchased for development of the golf course, but has not been included in or maintained as part of the ongoing operation of the golf course. Also on the June 17, 2014 Agenda the operation agreement for the golf course is proposed to be amended to exclude this 26,618 square foot property from the golf course for one-time compensation to the Mike Rawitser Golf Shop of \$25,000 (the operator of the golf course).

The operation of the San Jose Municipal Golf Course is managed under an agreement with Mike Rawitser Golf Shop. The original agreement was executed on December 8, 1987 with a 25 year term.

On June 27, 1990, the City and Operator amended the Original Agreement in a document entitled "First Amended Agreement" to remove 1.19 acres of land from the property for additional development of Townsend Neighborhood Park.

On June 28, 1994, the City and Operator amended and fully restated and superseded the Original Agreement and First Amendment in a document entitled "Second Amended and Restated Agreement" to, among other things, provide for additional payments by Operator to the City and to allow to extend the term.

On February 20, 1996, the City and Operator amended the Restated Agreement in a document entitled "Third Amended Agreement" to allow for installation of a sidewalk and new fence along Townsend Avenue.

On January 27, 1999, the City and Operator amended the Restated Agreement in a document entitled "Fourth Amended Agreement" to allow for installation of a sidewalk and new fence along Oakland Road.

The operating agreement is in the first 5-year option period as amended in the Second Amended and Restated Agreement. The original agreement did not include the Araujo Street portion as part of the legal description of the golf course. The Araujo Street portion was added to the agreement in the Fourth Amended Agreement as the Second Revised Exhibit A.

As noted above there is a related City Council item to be considered on June 17, 2014 Council agenda as a part of this transaction which involves a Fifth Amendment to the Municipal Golf operating agreement with Mike Rawitser Golf Shop which excludes the subject property from the operating agreement.

In preparation for Council's consideration to declare the subject property as surplus to the needs of the City, Real Estate staff has reviewed a preliminary title report confirming City's ownership of the property, and developed a preliminary estimate of value. Further, Real Estate staff has also communicated with applicable City departments, including Planning, Building and Code Enforcement, Housing, and Parks, Recreation and Neighborhood Services, to determine whether there is any current or intended future municipal use of the property. No such current or intended future municipal use of the property has been identified. Therefore, staff is

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recommending that City Council declare that the property is not needed for or adaptable to City use.

On August 21, 2013, in accordance with California Government Code Section 54222(d), staff prepared and distributed the notification to local agencies of the availability of the 26,618 square foot property on Araujo Avenue for the development of housing for persons and families of low or moderate income; park, recreation open space; public school and/or enterprise zone purposes. Staff did not receive any responses to the 54222 notification letters.

### **ANALYSIS**

On November 5, 2013, staff presented the property for discussion of disposition to the Community and Economic Development CSA. City departments were offered an opportunity to present possible future municipal purposes for retaining the property. The City's Parks, Recreation and Neighborhood Services Department and Housing Department had previously been provided notice as part of the 54222 notification. There was no interest in retaining the property for future municipal purposes,

Staff initiated a bid and negotiation process to sell the property. The property has been posted "For Sale" receiving numerous inquiries as to price and use. The property was also posted for sale in the Mercury News for two consecutive weekends. During the marketing efforts for the property, the City received bids beginning at \$495,000 with the final highest most qualified bid received at \$960,000 minus a 3% sales commission to the real estate broker representing the buyer. The net value to the City after subtracting the sales commission is \$931,200. Staff reviewed market activity in the area prior to offering the property for sale including recent sales and properties currently for sale in the area and determined that the proposed sale price represents the fair market value for the property. The property is being sold "as is". The buyer has been provided with all applicable disclosures and property information that was contained in the Real Estate property files

### **EVALUATION AND FOLLOW-UP**

The transfer of the subject property is anticipated to be completed no later than June 30, 2014.

### **POLICY ALTERNATIVES**

*Alternative # 1:* Reject the sale of the property and continue City ownership.

**Pros:** By retaining the property, the City retains the ability to develop the property for future municipal purposes, if the need arises.

**Cons:** By rejecting the sales, the City will continue to incur costs for maintenance of the property and the ongoing liability for repairs and safety concerns

**Reason for not recommending:** Continuing ownership of the property will result in ongoing maintenance expenses and potential liability. No future municipal uses have been identified.

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### **PUBLIC OUTREACH**

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action does not meet any of the above listed criteria; however it will be posted on the City's website for the June 17, 2014 Council agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Manager's Budget Office, the Parks, Recreation and Neighborhood Services Department, Housing Department, and the City Attorney's Office.

### **FISCAL/POLICY ALIGNMENT**

The sale of the subject property is in alignment with the Mayor's March 2009 Budget Message in the Section Investment Strategies, Item 1h which stated: "The City is currently undergoing a rigorous asset management review to include the sale of nonessential and underperforming City-owned properties, restructuring of existing leases with for-profit and non-profit operators of City facilities, and leasing of City infrastructure to private or other governmental operators."

### **COST SUMMARY/IMPLICATIONS**

Upon the completion of the sale of this property, the net proceeds (\$931,200) from the execution of this Purchase and Sales Agreement will be recognized and deposited into the City's General Fund and will help meet the sale of surplus property revenue estimate. Surplus property sales will continue to be carefully monitored to determine if adjustments to revenue estimates are necessary.

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**CEQA**

Exempt, File No. PP10-101.

/s/

KIM WALES

Director of Economic Development  
Chief Strategist

For questions please contact Nanci Klein, Deputy Director, at (408) 535-8181.

Attachment

ATTACHMENT A  
LEGAL DESCRIPTION OF REAL PROPERTY

EXHIBIT 'A'  
PROPERTY DESCRIPTION

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, being a portion of Parcel No. 5 as shown on the Record of Survey filed for record in Book 220 of Maps, at Pages 8-11, Records of Santa Clara County, and being more particularly described as follows:

Commencing at the most westerly corner of Parcel 3 as shown on the Parcel Map filed for record in Book 554 of Maps, at Pages 2-3, Records of Santa Clara County; thence, along the northwesterly line of said Parcel 3, N 38°26'34" E 163.89 feet to a point that is 25.00 feet distant from, as measured along a radial line to, the monument line of Araujo Street as shown on said Parcel Map; thence from a radial bearing of S 76°18'57" E, northeasterly along a curve to the right, having a radius of 325.00 feet and a central angle of 08°06'25" for a distance of 45.99 feet to a point of reverse curvature; thence northeasterly along a curve to the left, having a radius of 315.00 feet and a central angle of 03°09'59" for a distance of 17.41 feet to the POINT OF BEGINNING; thence continuing along the projection of said last-mentioned curve, a central angle of 53°34'19" for a distance of 294.53 feet; thence along the southeasterly line and its northeasterly projection, of Tract No. 8013, the Map of which was recorded in Book 588 of Maps, at Pages 30-31, Records of Santa Clara County, S 38°22'43" W 195.54 feet; thence leaving said southeasterly line, S 51°41'31" E 206.08 feet to the POINT OF BEGINNING.

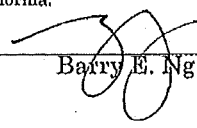
Containing approximately 26,618.64 square feet (0.61 acres).

This description was prepared from record information only and does not reflect data based on a field survey. The Basis of Bearings for this description is the bearing N 38°26'34" E of the northwesterly line of Parcel 3 as shown on the Parcel Map filed for record in Book 554 of Maps, at Pages 2-3, Records of Santa Clara County.

ATTACHMENT A (cont)LEGAL DESCRIPTION OF REAL PROPERTY

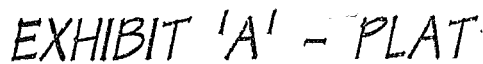
Attached hereto and by reference a part hereof is a plat labeled "EXHIBIT 'A' PLAT"  
depicting the subject property.

The above description of real property was prepared by me in conformance with the requirements of Section  
8726(g,k,l,m) of the Business and Professions Code of the State of California.

 9.22.03  
Barry E. Ng PLS7713

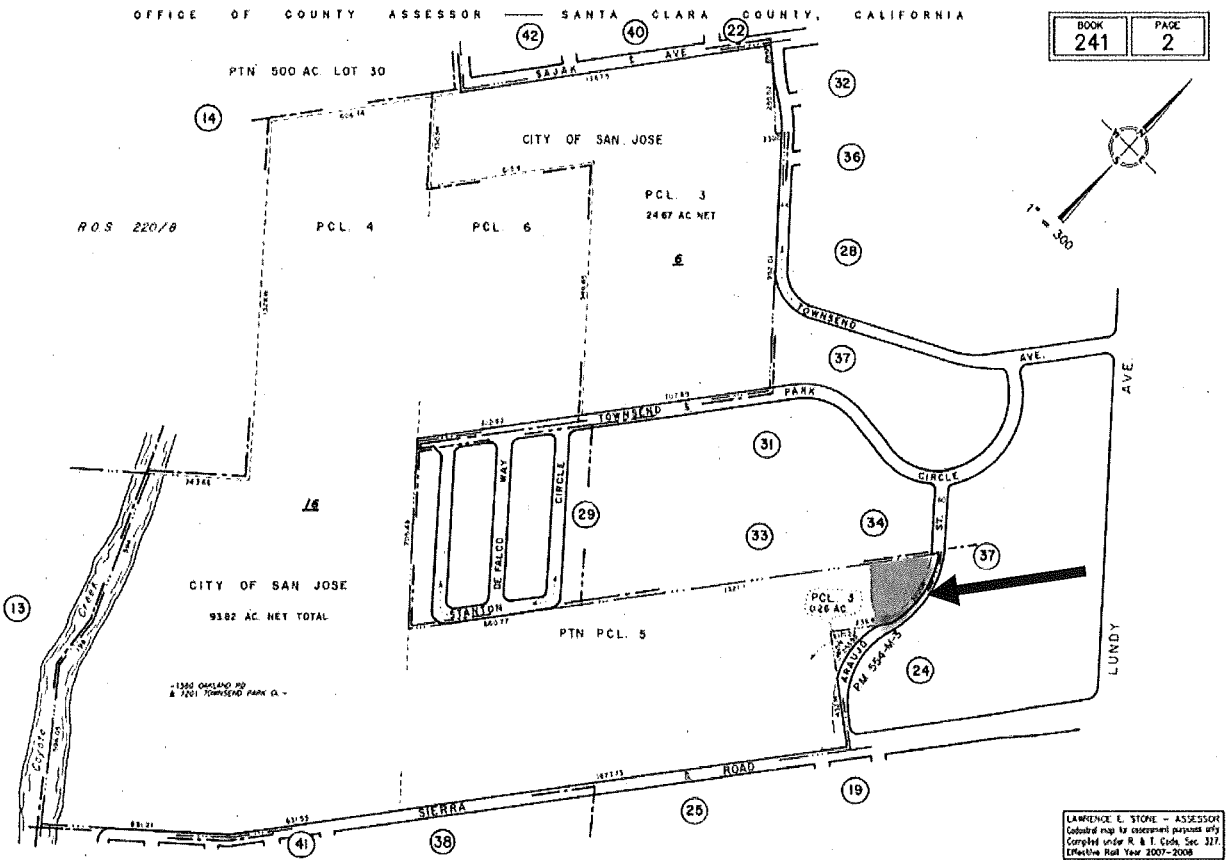


## Plat Map





# ATTACHMENT B ASSESSOR'S PARCEL MAP



ATTACHMENT C  
AERIAL MAP

